

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2000-318-C - ORDER NO. 2000-858

OCTOBER 24, 2000

IN RE: Application of State Discount Telephone,)	ORDER
L.L.C. d/b/a SDT Communications, L.L.C.)	GRANTING
for a Certificate of Public Convenience and)	CERTIFICATE TO
Necessity to Provide Local Exchange)	PROVIDE LOCAL
Telecommunications Services within the State)	SERVICES
of South Carolina.		

VDW

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of State Discount Telephone, L.L.C. d/b/a SDT Communications ("SDT" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide local exchange telecommunications services throughout the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1999) and the Regulations of the Public Service Commission of South Carolina.

By letter, the Commission's Executive Director instructed SDT to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. SDT complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") on August 25, 2000. A Petition to Intervene was also received from counsel for State Communications, Inc. on July 12, 2000.

On September 8, 2000, counsel for SCTC filed with the Commission a Stipulation in which SDT stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until SDT provided written notice of its intent prior to the date of the intended service. SDT also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. SDT agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to SDT to provide local services provided the conditions contained in the Stipulation are met. The Stipulation was entered into the evidence of the hearing, and the Staff requested that the Stipulation be approved by the Commission. The Stipulation is approved and attached as Order Exhibit 1.

A letter was received from one of the owners of State Discount Telephone, L.L.C. on August 11, 2000, notifying the Commission that State Discount Telephone, L.L.C. and State Communications, Inc., parent company of TriVergent Communications, Inc., had reached an agreement whereby State Discount Telephone, L.L.C. would use the business name d/b/a SDT Communications, L.L.C. in the State of South Carolina to avoid unnecessary conflict with the name State Communications, Inc. State Communications, Inc. had asserted in its Petition to Intervene that the name State Communications, Inc. is its service mark. It was registered with the United States Patent and Trademark Office on May 18, 1999. State Communications, Inc., had petitioned to intervene in this Application based on its assertion that the similarity of its name

with the name of the Applicant Company might cause customer confusion in South Carolina. A copy of the Letter of Agreement between State Communications, Inc. and State Discount Telephone, L.L.C. that State Discount Telephone, L.L.C. would agree to use its d/b/a name SDT Communications, L.L.C. in South Carolina was entered into the evidence of the hearing, and the Staff requested that it be approved by the Commission. The Letter of Agreement is approved and attached as Order Exhibit 2.

A hearing was commenced on September 27, 2000, at 10:30 a.m. in the Commission's Hearing Room. The Honorable William Saunders, Chairman, presided. SDT was not represented by counsel. Adelaide D. Kline, Staff Counsel, represented the Commission Staff.

Misty Fruge', Vice President and co-owner of SDT, appeared and testified in support of the Application. Ms. Fruge' stated she has been in the telecommunications industry since 1996 and has previous experience as a service representative with Lone Star State Telephone Company, a Texas competitive local exchange telephone company. She testified she was responsible for all provisioning, collections, and payments receivable, training new employees and daily operations of that company. Her everyday duties at SDT include responsibility for the overall management of the Company. SDT is a Texas corporation which was granted a Certificate of Authorization to transact business in the State of South Carolina by the South Carolina Secretary of State on June 19, 2000.

Ms. Fruge' testified that SDT is currently offering prepaid local service to 800 customers in Texas, Alabama, Florida, Kentucky and Tennessee, and has applications pending in various stages of approval in Georgia and Arkansas. The record reveals that SDT was formed as State

Discount Telephone on September 10, 1997. The record further reveals that the Company became a limited liability company in the State of Texas on June 16, 1998.

Ms. Fruge' stated that SDT possesses the necessary financial qualifications to provide the services for which it seeks authority. SDT provided its financial information with its Application to demonstrate its financial resources. Ms. Fruge' acknowledged that SDT has sufficient capital necessary to fund its proposed operations in South Carolina. She testified that the Company has been in business since December of 1997 and had revenues of approximately a half a million dollars last year. She said the Company has a line of credit with the First National Bank and the Bank of America of Huntsville, Texas. Financial statements filed with the Company's Application and Ms. Fruge's testimony indicate SDT was in a good financial position as of April 30, 2000. According to the financial statements submitted with the Application, as of April 30, 2000, SDT had total current assets of \$43,831.71 and total current liabilities of \$12,191.20. The record reveals Richard S. Ohendalski is SDI's Certified Public Accountant.

Regarding the Company's technical ability and managerial abilities to offer services in South Carolina, Ms. Fruge' offered that SDT has sufficient technical and managerial resources and abilities to provide the services for which authority is sought. Ms. Fruge' stated that she is Vice President and a co-owner of SDT. Partner and co-owner of SDT is Rene Thielepape who serves as the Company's President. Ms. Fruge' testified that together they have approximately twenty years of combined telecommunications experience. She further stated that Ms. Thielepape has approximately fifteen years in the telecommunications field. Ms. Thielepape was previously employed with Lufkin Conroe Telephone Exchange in Conroe, Texas. Further, the record reveals Ms. Thielepape has received certification in customer relations, pager operations

and internet operations. Ms. Fruge' received a Bachelor of Science degree from Sam Houston State University in 1998. Ms. Fruge' stated that SDT currently has four employees.

As further evidence of the company's abilities to provide the services for which authority is requested, Ms. Fruge' offered that SDT's customer billing program is handled in-house. The Company's name and toll free telephone number will appear on the bill. Customers who need to report a repair problem would use the same toll-free telephone number 1 (800) 797-3547 which is available Monday through Friday from 8:30 a.m. until 5:30 p.m. and from 9:00 a.m. until 1:00 p.m. on Saturday, Central Standard Time. Ms. Fruge' said the customer toll-free telephone number provides a voice mail system on weekends.

Ms. Fruge' testified that SDT seeks authority to offer and provide resold local exchange telecommunications services on a prepaid basis in South Carolina. The Company plans to directly market its prepaid local services to customers who have no dial tone due to poor credit or past due balances. Prepaid services are services for which a company does not perform consumer credit checking or application screening and which are paid for prior to service being rendered. Prepaid services are structured to attract customers who do not currently have telephone service, including those customers who have been denied service by other providers. Ms. Fruge' stated the Company plans to use cable television advertising, and newspaper and radio advertising to target the residential market in South Carolina. Ms. Fruge' is aware of the Commission's marketing guidelines and testified the Company does not intend to do any telemarketing in South Carolina and does not plan to offer prepaid calling cards.

Ms. Fruge' testified SDT has entered into a resale/interconnection agreement with BellSouth which will be filed with the Commission for approval when SDT receives its

certificate. At this time, SDT has no prepaid local service customers of its own in South Carolina, has never marketed its services in this State, and has never been denied certification. Ms. Fruge' stated customers who wish to change service from another service provider to SDT would sign a document authorizing the change. She testified the current rate for monthly prepaid service is \$48.00; caller ID is priced at \$10.00 per month and other vertical services such as call waiting are \$4.00 each per month.

According to the application and testimony by Ms. Fruge', SDT requests waivers of certain Commission regulations. First, SDT requests a waiver of 26 S. C. Code Ann. Reg. 103-631 (Supp. 1999) so that it will not be required to publish its own local directory. Second, SDT requested that it be exempt from 26 S. C. Code Ann. Regs. 103-610 that requires that its records be kept in South Carolina. The Company also requests that the Commission allow it to maintain its financial records in accordance with Generally Accepted Accounting Principles (GAAP).

Ms. Fruge' affirmed that SDT will provide services that meet the service standards of the Commission, that SDT will participate in the support of universally available telephone service at affordable rates as required by the Commission, and that the services provided by SDT will neither adversely impact the availability of universally affordable local exchange service nor adversely impact the public interest. According to Ms. Fruge', approval of the authority for SDT will provide consumers in South Carolina with additional choices of local service, and will offer increased efficiency to the existing telecommunications network. Ms. Fruge' also testified that SDT will operate in compliance with the Commission's Rules and Regulations, orders and statutes.

Upon consideration of the application and the record from the hearing, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. SDT is organized as a corporation under the laws of Texas. The Company received a certificate from the South Carolina Secretary of State June 19, 2000, to transact business in South Carolina.

2. SDT wishes to provide local exchange services within the State of South Carolina.

3. The Commission finds that SDT possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1999).

4. The Commission finds that SDT's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1999).

5. The Commission finds that SDT will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1999).

6. The Commission finds that SDT will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1999).

7. The Commission finds that the provision of local exchange service by SDT "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1999).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to SDT to provide competitive intrastate local exchange services within the State of South Carolina. The terms of the Stipulation between SDT and the SCTC (attached hereto as Order Exhibit 1) are approved and adopted as a portion of this Order. Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation. In accordance with the Stipulation, SDT may not provide any local service to a customer located in a rural incumbent LEC's service area, unless or until SDT provides such rural incumbent LEC and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. The Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon a showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from SDT that it intends to serve a customer located in a rural incumbent LEC's service area, and the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own, no service may be provided by SDT in a rural

incumbent LEC's service area pursuant to this Order without prior and further Commission approval.

2. SDT shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Any proposed change in the rates reflected in the tariff for local services which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1999).

3. SDT shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

4. SDT shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. SDT shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The Annual Report for Competitive Local Exchange Carriers consists of four pages. The form the Company shall use to provide this information to the Commission can be found at the Commission's website at www.psc.state.sc.us/forms. SDT shall keep such financial records as needed to comply with the annual report and gross receipt filings.

6. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system

include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs SDT to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, SDT shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

7. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

SDT shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form the Company shall use to provide this information to the Commission can be found at the Commission's website at

www.psc.state.sc.us/forms. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

8. SDT requested waivers from certain Commission regulations and requirements. Specifically, SDT requested waivers from (1) the requirement found in 26 S. C. Ann. Reg. 103-631 (1976) to publish and distribute local exchange directories, and (2) the requirement found in Regulation 103-610 that its records be kept in South Carolina. For good cause shown, the Commission finds and concludes that SDT should be granted waivers, as requested, from (1) the requirement contained in Reg. 103-631 to publish and distribute local exchange directories, and (2) the requirement that it keep its records in this State. SDT has shown that it will arrange with the incumbent local exchange company to include the customers of SDT in the directory listing of the ILEC directory. Further, the Company has shown that it wishes to keep its records at its headquarters in Huntsville, Texas, and will make its records available for examination by the Commission or its authorized representative at all reasonable hours. Therefore, this Commission grants SDT's request for waivers of those two particular regulations. The Commission also grants SDT the opportunity to keep its books and records in accordance with GAAP rather than USOA. SDT is directed to comply with all Commission regulations, unless a regulation is specifically waived by the Commission.

9. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Filed 9/8/00
Accepted 9/11/00

Docket No. 2000-318-C

Re: Application of State Discount Telephone, LLC)
for a Certificate of Public Convenience and)
Necessity to Provide Local Exchange)
Telecommunications Services in the State)
of South Carolina)
_____)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and State Discount Telephone, LLC ("State Discount") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose State Discount's Application. SCTC and State Discount stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to State Discount, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. State Discount stipulates and agrees that any Certificate which may be granted will authorize State Discount to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. State Discount stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. State Discount stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless

and until State Discount provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, State Discount acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. State Discount stipulates and agrees that, if State Discount gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then State Discount will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. State Discount acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

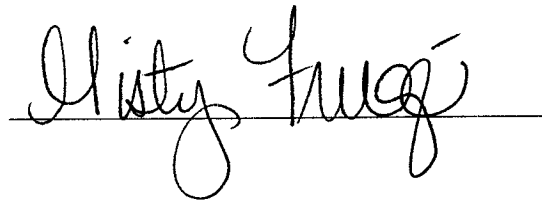
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and State Discount, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. State Discount agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

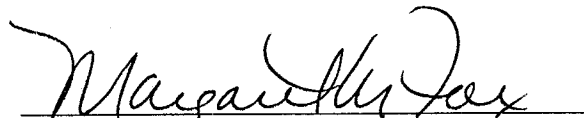
9. State Discount hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 28th day of August, 2000.

State Discount Telephone, LLC:

A handwritten signature in cursive script, appearing to read "M. John Bowen, Jr.", written over a horizontal line.

South Carolina Telephone Coalition:

A handwritten signature in cursive script, appearing to read "Margaret M. Fox", written over a horizontal line.

M. John Bowen, Jr.
Margaret M. Fox
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

Attorneys for the South Carolina Telephone
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

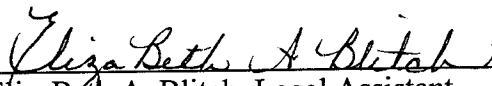
Docket No. 2000-318-C

Re: Application of State Discount Telephone, LLC)
for a Certificate of Public Convenience and)
Necessity to Provide Local Exchange)
Telecommunications Services in the State)
of South Carolina)
_____)

**CERTIFICATE OF
SERVICE**

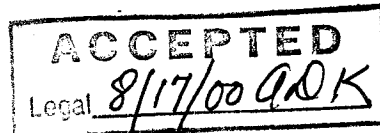
I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

Ms. Misty Frugé
State Discount Telephone, LLC
2023 Sam Houston Avenue, #2
Huntsville, Texas 77340.


ElizaBeth A. Blitch, Legal Assistant
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

September 8, 2000

Columbia, South Carolina

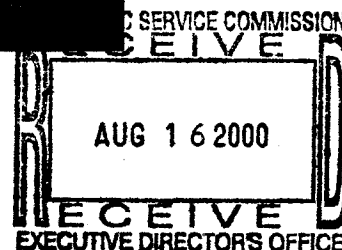


POSTED
008-17-00



August 11, 2000

The Honorable Gary E. Walsh
Executive Director
PO Drawer 11649
Columbia, SC 29210



RE: Docket No. 2000-318-C - Application of State Discount Telephone, LLC For a Certificate of Public Convenience and Necessity to Provide Local Exchange Telecommunications Services.

Dear Mr. Walsh,

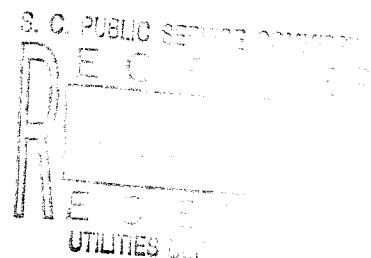
State Discount Telephone, L.L.C. hereby notifies the Commission that in compliance with State Communication's request and Beach Law Firm, File No. 00.87, and their Petition to Intervene, State Discount Telephone, L.L.C. will use a "doing business as" name in the State of South Carolina to avoid unnecessary conflict with the name. State Discount Telephone, L.L.C. will d/b/a SDT Communications.

If you have any further questions regarding this matter, please contact me.

Sincerely,

Misty Fruge
Misty Fruge'

cc: All parties of Record



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e-mail: sdt@lightnetinternet.com